



# AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior listings and versions of claims in this application. Please amend claims 110, 111, 123, 125, 126, 129, 131-134, and 136, and add new claim 137, as follows:

1-109. (Canceled).

110. (Currently Amended) A surgical instrument used in an endoscopic fundoplication, comprising:

an elongated tube having a proximal end and a distal end;

a distal member coupled proximate the distal end of the tube and configured to

fold a fundus of a stomach toward an esophageal wall, the distal member

including a rotatable member having a connected end and a free end and

being configured to rotate between a first position in which the free end is

located distally of the connected end and a second position in which the

connected end is located distally of the free end; and

a grasper configured to grasp at least a portion of the fundus or the esophageal wall;

wherein the grasper is coupled to one of the elongated tube and the distal member.

111. (Currently Amended) The instrument of claim 110, wherein the distal member includes a stationary member, and [[a]] the rotatable member is rotatably coupled

to the stationary member, the rotatable member rotatably movable with respect to the stationary member between ~~an open~~ the first position for receiving at least a portion of the fundus and the esophageal wall and ~~a closed~~ the second position for folding the fundus of the stomach toward the esophageal wall.

112. (Previously Presented) The instrument of claim 111, wherein the grasper is located between the stationary member and the rotatable member.

113. (Previously Presented) The instrument of claim 111, wherein the grasper includes a first grasping member rotatably coupled to the stationary member.

114. (Previously Presented) The instrument of claim 113, wherein the first grasping member includes a first grasping surface and the stationary member includes a second grasping surface associated with the first grasping surface so as to grasp the at least the portion of the fundus or the esophageal wall therebetween.

115. (Previously Presented) The instrument of claim 111, wherein the distal member is configured to deploy a fastener to the folded fundus and esophageal wall.

116. (Previously Presented) The instrument of claim 115, wherein the fastener has a first part and a second part, the stationary member is configured to hold the first part and the rotatable member is configured to hold the second part in opposed relation with the first part.

117. (Previously Presented) The instrument of claim 110, further comprising a control member configured to control operation of at least one of the distal member and the grasper, the control member located proximate the proximal end of the tube.
118. (Previously Presented) The instrument of claim 117, further comprising at least one control cable extending from the control member to at least one of the distal member and the grasper through the tube.
119. (Previously Presented) The instrument of claim 110, wherein the tube includes a port for an endoscope.
120. (Previously Presented) The instrument of claim 110, wherein the at least a portion of the fundus or the esophageal wall grasped by a grasper is a gastroesophageal junction.
121. (Previously Presented) A method of performing invagination, comprising:  
providing the surgical instrument of claim 110;  
inserting the surgical instrument transorally into a stomach;  
grasping a portion of the fundus or the esophageal wall with the grasper; and  
folding the fundus toward the esophageal wall with the distal member, while grasping the portion of the fundus or the esophageal wall.

122. (Previously Presented) The method of claim 121, wherein the grasper is integrally formed with the distal member.
123. (Currently Amended) The method of claim 121, wherein the distal member includes a stationary member, ~~and a~~ the rotatable member is rotatably coupled to the stationary member, and the step of folding the fundus includes rotating the rotatable member with respect to the stationary member so as to fold the fundus toward the esophageal wall.
124. (Previously Presented) The method of claim 121, further comprising applying a fastener with the distal member to secure the fundus to the esophageal wall.
125. (Currently Amended) The method of claim 124, wherein the fastener has a male member and a female member, and the ~~distal member includes a first part~~ rotatable member is configured to hold one of the male ~~member~~ and a second ~~part coupled to the first part and~~ and female members, the distal member further comprising a stationary member coupled to the rotatable member and configured to hold another of the male and female ~~member~~ members in opposed relation with the one of the male ~~member~~ and female members.
126. (Currently Amended) The method of claim 125, wherein applying the fastener includes rotating ~~at least one of the first and second parts~~ the rotatable member

with respect to the ~~other of the first and second parts~~ the stationary member so as to cause engagement between the male and female members.

127. (Previously Presented) The method of claim 125, wherein applying the fastener includes actuating an actuator for engagement between the male and female members, the actuator being coupled to the proximal end of the elongated tube.

128. (Previously Presented) The method of claim 121, wherein an endoscope is inserted into the proximal end of the elongated tube before the instrument is inserted into the stomach.

129. (Currently Amended) An instrument for folding multiple tissue layers of a body, comprising:

an elongated tube having a proximal end for extending outside of the body and

a distal end for positioning proximate the multiple tissue layers;

a distal member ~~coupled to the distal end of the tubular member and~~ configured

to fold the multiple tissue layers together, the distal member comprising:

a first member having a proximal end coupled to the distal end of the

tubular member and a distal end; and

a second member rotatably coupled to the distal end of the first member;

and

a grasper coupled to one of the distal member and the tube for grasping a

portion of at least one of the multiple tissue layers.

130. (Previously Presented) The instrument of claim 129, wherein the multiple tissue layers are an esophageal wall and a fundus wall.
131. (Currently Amended) The instrument of claim 129, wherein the second member ~~is distal member includes a stationary member and a rotatable member rotatably coupled to the stationary member, the rotatable member~~ rotatable between an open position for receiving the multiple tissue layers and a closed position for folding the multiple tissue layers therebetween.
132. (Currently Amended) The instrument of claim 131, wherein the grasper is located between the ~~stationary~~ first member and the ~~rotatable~~ second member.
133. (Currently Amended) The instrument of claim 131, wherein the grasper includes a first grasping member rotatably coupled to the ~~stationary~~ first member.
134. (Currently Amended) The instrument of claim 133, wherein the first grasping member includes a first grasping surface and the ~~stationary~~ first member includes a second grasping surface configured to engage with the first grasping surface so as to grasp the portion of at least one of the multiple tissue layers therebetween.

135. (Previously Presented) The instrument of claim 129, wherein the distal member is configured to deploy a fastener to the multiple tissue layers.
136. (Currently Amended) The instrument of claim 135, wherein the fastener has a first part and a second part, ~~and the distal member includes a stationary member and a rotatable member coupled to the stationary member,~~ the stationary first member being configured to hold the first part and the ~~rotatable~~ second member being configured to hold the second part in opposed relation with the first part.
137. (New) The instrument of claim 129, wherein the second member has a connected end connected to the distal end of the first member and a free end, and the second member is configured to rotate between a first position in which the free end is located distally of the connected end and a second position in which the connected end is located distally of the free end.